IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

TUESDAY, THE 5TH JUNE 2007 / 15TH JYAISHTA 1929

MFA.No. 1502 of 2001

OPMV.404/1994 of MOTOR ACCIDENT CLAIMS TRIBUNAL, IRINJALAKUDA
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APPELLANTS:

1. AMBUJAM, W/O LATE RAJAN @ KANAKARAJAN,
   ASHTAMICHIRA HOUSE, NAYARANGADI,
   P.O.KALLOOR, THRISSUR.

2. MINOR RAJESH, S/O OF 1ST PETITIONER, DO. DO.

3. MINOR RAJESWARI, D/O OF 1ST PETITIONER, DO. DO.

   (MINORS REP. BY THEIR GUARDIAN NEXT FRIEND AMBUJAM)

4. NADACHI, W/O MANNAL, KANDAKASSERY,
   KULATHINKARA, SERUTHIKONAM,
   P.O.KULASEKHARAM, KANYAKUMARI DIST.,
   TAMIL NADU.

BY ADV. SRI.P.V.CHANDRA MOHAN

RESPONDENTS:

1. KERALA STATE ROAD TRANSPORT CORPORATION
   REP. BY ITS MANAGING DIRECTOR, KSRTC, TRIVANDRUM.

2. PETER, S/O THOMAS, VELIYIL VEETTIL, EROOR
   KATTIPARAMBU, TRIPUNITHURA, KANAYANNOOR
   TALUK, KOCHI.

R1 BY SHRI.JOHNSON P.JOHN, SC, KSRTC

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD
ON 05/06/2007, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

J.B.Koshy & K.P.Balachandran, JJ.

M.F.A.No. 1502 of 2001

JUDGMENT

Koshy, J.

Husband of the first appellant died in a motor accident, which was due to the negligence of the driver of the vehicle owned by the first respondent KSRTC. The dependents filed an application for compensation, claiming an amount of Rs.3,50,000/-. The total compensation awarded was only Rs.2,03,340/-. The quantum of compensation is disputed in this appeal and we are considering only the same.

2. At the time of the accident, the deceased was thirty years old. The accident occurred on 31.12.1993. He left behind his wife, who was only twenty six years old, two minor children and an old mother. Taking into account the age of the deceased as thirty, the Tribunal has taken seventeen as the multiplier, taking the guidelines in the second schedule. We see no ground to interfere with the

multiplier fixed by the Tribunal. It is the case of the claimants that the deceased was getting more than hundred rupees per day and the wife deposed that after his personal expenses, he used to entrust her Rupees eighty per day. He was a Maison by profession. The Tribunal fixed only Rs.1250/- as the monthly wages. It was the notional income fixed in the second schedule for a non-earning person. The fact that he was working as a Maison was not disputed. He was maintaining a family. Taking into account all these aspects, we are of the opinion that the Tribunal ought to have fixed Rs.1,500/- as the monthly income. If that be so, loss of dependency will be Rupees one thousand per month and the total compensation payable will be Rs.12,000/- x 17 = 2,04,000/-. The Tribunal awarded only Rs.1,70,340/-. Therefore, the claimants will be entitled to an additional amount of Rs.33,660/-. No amount is seen awarded for transportation expenses. The accident occurred at 7.45 p.m. and he died only at 9 p.m. He was taken to the

hospital and thereafter his dead body was to be carried back to his house in an ambulance. Therefore, we are of the opinion that Rupees five hundred ought to have been awarded by the Tribunal for transportation expenses. We award Rupees five hundred on that count. Even though he died after taking treatment, it is true that medical bills were not produced. We award Rupees nine hundred for medical expenses. Thus, the additional amount calculated is Rs.35,060/-, rounded to Rs.35,000/-. The first respondent KSRTC is directed to deposit the above amount of Rs.35,000/- with 8% interest from the date of application till date of deposit. On deposit of the amount the appellants are allowed to withdraw the same.

The appeal is allowed in part.

(J.B.Koshy, Judge)

5th June, 2007

(K.P.Balachandran, Judge)

tkv

J.B.Koshy & K.P.Balachandran, JJ.

M.F.A.No.1502 of 2001

JUDGMENT

5th June, 2007